Supreme Court, U.S.
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No. 01-1289

IN THE

Supreme Court of the United States

STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY,

Petitioner,

v.

CURTIS B. CAMPBELL and INEZ PREECE CAMPBELL,

Respondents.

ON WRIT OF CERTIORARI
TO THE UTAH SUPREME COURT

SUPPLEMENTAL BRIEF FOR PETITIONER

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CORPORATE DISCLOSURE STATEMENT

The corporate disclosure statement for Petitioner State Farm Mutual Automobile Insurance Company was set forth on page ii of Petitioner's Opening Brief, and there are no amendments to that statement.

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PRESENTATION OF NEW AUTHORITY

Petitioner State Farm respectfully submits this supplemental brief, pursuant to Supreme Court Rule 25.5, in order to bring to the Court's attention a new decision of the United States Court of Appeals for the Ninth Circuit, *White v. Ford Motor Co.*, No. 99-15185, 2002 WL 31687641 (9th Cir. Dec. 3, 2002), which was issued after the close of briefing in this case.

In *White*, the Ninth Circuit held that, under the principles of due process, state sovereignty and comity articulated by this Court in *BMW of North America, Inc. v. Gore*, 517 U.S. 559 (1996), a state may not constitutionally impose punitive damages to punish out-of-state conduct, regardless of whether the out-of-state conduct was lawful or unlawful in the state or states where it occurred. *See White*, 2002 WL 31687641, at *11-*17. The Ninth Circuit stated that the introduction by the plaintiffs of "extensive evidence of extraterritorial conduct" and argument by plaintiffs' counsel urging the jury to punish the defendant for that conduct resulted in a "substantive error" of federal constitutional law. *See id.* at *14 n.69. The court also recognized that, where extraterritorial conduct is admissible as bearing on the degree of reprehensibility of the tortfeasor's conduct, the constitutional excessiveness inquiry - grounded in the first instance on notions of federalism – constrains a state from using evidence of reprehensibility to go "the extra and substantial step" of entitling the state to punish and deter conduct in other states. *See id.* at *12.

The decision in *White* directly supports the arguments set forth by State Farm in Points I and IV of its opening brief to this Court. *See* Petitioner's Brief at 16-23 and 42-46.

Respectfully Submitted,

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